

Eric S. Goldstein
Shipman & Goodwin LLP
One Constitution Plaza
Hartford, CT 06103-1919
Tel.: (860) 251-5000
Fax: (860) 251-5218
Email: egoldstein@goodwin.com
Counsel for Gartner, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re:

Chapter 11

CELSIUS NETWORK LLC, et al.¹

Case No. 22-10964 (MG)

Debtor.

(Jointly Administered)

-----X

**LIMITED OBJECTION TO SUPPLEMENTAL NOTICE TO CONTRACT PARTIES TO
POTENTIALLY ASSUMED EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

Gartner, Inc. (“Gartner”) hereby submits this limited objection to address an incorrect cure amount set forth in the Supplemental Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases dated December 5, 2022 [Docket No. 1610] (the “Supplemental Cure Notice”). Counsel for Gartner has been in communications with counsel for the Debtors regarding the listing of the incorrect cure amount and a potential resolution of the issues relating to such cure amount, which would resolve this objection. However, as of the filing of this objection, counsel for Gartner and the Debtors have not reached an agreement, and thus, Gartner files this objection out of an abundance of caution to preserve its rights. In support of this limited objection, Gartner states as follows:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Celsius Network LLC (2148); Celsius KeyFi LLC (4414); Celsius Lending LLC (8417); Celsius Mining LLC (1387); Celsius Network Inc. (1219); Celsius Network Limited (8554); Celsius Networks Lending LLC (3390); and Celsius US Holding LLC (7956). The location of Debtor Celsius Network LLC’s principal place of business and the Debtors’ service address in these chapter 11 cases is 121 River Street, PH05, Hoboken, New Jersey 07030.

I. BACKGROUND

1. On July 13, 2022, (the “Petition Date”), the Debtors filed voluntary petitions under Chapter 11 in this Court.

A. The Service Agreement

2. Gartner and Celsius Network LLC (the “Debtor”) are parties to that certain Service Agreement dated on or about December 31, 2021 (the “Service Agreement”). Pursuant to the Agreement, Gartner agreed to provide the Debtor certain subscription-based research and related services in exchange for certain fees. Pursuant to the Service Agreement, Gartner provided the Debtor with a three term subscription from January 1, 2022 to December 31, 2022, January 1, 2023 to December 31, 2023, and January 1, 2024 to December 31, 2024, respectively, for Gartner for HR Leaders Midsize Enterprise and TalentNeuron services.

3. Gartner issued the Debtor Invoice No. 1162499 dated April 20, 2022, in the amount of \$39,664.50 for the period of May 1, 2022 to August 31, 2022 (the “April Invoice”) under the Service Agreement. The Debtor has not paid the April Invoice. A true and accurate copy of the April Invoice is annexed hereto as **Exhibit A**. In addition to the amounts due and owing under the April Invoice, the Debtor also owes Gartner \$39,664.48 for Invoice No. 1172858 dated August 2, 2022, for the period of September 1, 2022 through December 31, 2022 (the “August Invoice”, together with the April Invoice, the “Invoices”). A true and accurate copy of the August Invoice is annexed hereto as **Exhibit B**.

4. Gartner timely filed a proof of claim for these amounts due and owing under the Service Agreement. (*See* Claims Register, Claim No. 8532.)

B. The Debtors' Bankruptcy Cases

5. On November 2, 2022, the United States Bankruptcy Court for the Southern District of New York (the "Court") entered the *Order (I) Approving the Bidding Procedures in Connection With the Sale of Substantially All of the Debtors' Assets, (II) Scheduling Certain Dates With Respect Thereto, (III) Approving the Form and Manner of Notice Thereof and (IV) Granting Related Relief* [Docket No. 1272] (the "Bidding Procedures Order").

6. On November 7, 2022, the Debtors filed the *Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* [Docket No. 1300] (the "Initial Cure Notice"). The Debtors, in accordance with paragraph 13.f. of the Bidding Procedures Order, hereby were able to file a supplement to the Initial Cure Notice.

7. On December 5, 2022, the Debtors filed the Supplemental Cure Notice, which listed a "Service Agreement Dated – Effective Date: 12/31/2021" with a cure amount of \$39,664.50. (See Docket No. 1610, Ex. A.)

II. OBJECTION

9. 11 U.S.C. § 365(b)(1) requires that "[i]f there has been a default in an executory contract . . . of the debtor, the trustee may not assume such contract . . . unless, at the time of assumption of such contract . . ., the trustee . . . cures, or provides adequate assurance that the trustee will promptly cure, such default"

10. To be clear, Gartner does not object to the assumption of the Service Agreement, but it objects to the proposed cure amount by the Debtor and contends that the actual cure amounts owed for services provided to the Debtor as of the date of assumption must be paid pursuant to 11 U.S.C. § 365 for the Service Agreement to be assumed.

11. As of the Petition Date, a total of \$39,664.50 was due under the April Invoice. In addition, as of August 2, 2022, an additional \$39,664.48 became due and owing for the August Invoice. If the Debtor desires to have the Service Agreement assumed, then proper arrangements must be made to ensure that all outstanding pre- and post-petition amounts are paid. Specifically, in accordance with 11 U.S.C. § 365(b), any order approving the assumption of the Service Agreement must require the payment in full of the pre- and post-petition amounts due to Gartner under the Service Agreement.

12. Counsel for Gartner has been working with counsel for the Debtor to resolve this objection and files this objection out of an abundance of caution to reserve all of its rights. Gartner will continue to work with the Debtor to try and resolve the issues raised herein.

III. RESERVATION OF RIGHTS

13. Gartner hereby reserves its right to make such other and further objections as may be appropriate, including modifying the cure amount if additional amounts accrue or are determined to be owing under the Service Agreement before the effective date of assumption.

WHEREFORE, Gartner respectfully requests that the Court enter an order (i) requiring the payment of the amounts outstanding under the Service Agreement as part of the cure of defaults under 11 U.S.C. § 365(b), and (ii) granting such further relief as the Court deems appropriate.

Hartford, Connecticut
December 19, 2022

By: /s/ Eric S. Goldstein
Eric S. Goldstein
Shipman & Goodwin LLP
One Constitution Plaza
Hartford, CT 06103
Tel.: (860) 251-5000
Fax: (860) 251-5218
Email: egoldstein@goodwin.com

Counsel for Gartner, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2022, a copy of foregoing was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System. In addition, I hereby certify that I have served a copy of the foregoing via electronic mail upon the below-listed parties.

Kirkland & Ellis LLP 601 Lexington Avenue New York, New York 10022 Attn: Joshua A. Sussberg, P.C. (joshua.sussberg@kirkland.com) Tommy Scheffer (tommy.scheffer@kirkland.com) <i>Counsel for the Debtors</i>	Kirkland & Ellis LLP 300 North LaSalle, Chicago, Illinois 60654, Attn.: Patrick J. Nash, Jr., P.C. (patrick.nash@kirkland.com) Ross M. Kwasteniet, P.C. (ross.kwasteniet@kirkland.com) Christopher S. Koenig (chris.koenig@kirkland.com) Dan Latona (dan.latona@kirkland.com) <i>Counsel for the Debtors</i>
Office of the United States Trustee for the Southern District of New York U.S. Federal Office Building 201 Varick Street, Suite 1006 New York, New York 10014 Attn.: Shara Cornell Mark Bruh Brian S. Masumoto shara.cornell@usdoj.gov mark.bruh@usdoj.gov brian.masumoto@usdoj.gov	

/s/ Eric S. Goldstein
Eric S. Goldstein